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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,231	10/08/2003	Aaron M. Tsirkei	10559/067002/P7554C/Intel	9990
20985	7590	01/05/2005	EXAMINER	
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			CAO, CHUN	
			ART UNIT	PAPER NUMBER
			2115	
DATE MAILED: 01/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/682,231	Applicant(s) TSIRKEL ET AL.	
	Examiner Chun Cao	Art Unit 2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/8/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 are presented for examination.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,665,805. Although the conflicting claims are not identical, they are not patentably distinct from each other because in view of the "obviousness-type" double patenting rational

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enunciated in *Georgia Pacific Corp v United States Gypsum Co.*, 52 USPQ2d 1590, U.S. Court of Appeals Federal Circuit 1999, application claims 1-8 merely define an obvious variation of the invention claimed in US patent 6,65,805.

After analyzing the language of the claims, it is clear that claim 1 of the '805 patent merely a **subset** of claims 1 and 2 of the instant application, and thus is an obvious variation of claims 1 and 2 of the instant application. While claim 1 of the '805 patent is slightly broader than claims 1 and 2 of the instant application, this difference is not enough to distinguish the two claims.

4. Claims 9-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,665,805. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of '805 patent contains every element of claims 1 and 2 of the instant application and as such anticipate claims 1 and 2 of the instant application.

A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. *In re Longi*, 759 F.2d at 896, 225 USPQ 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); *In re Berg*, 140 F.3d at 1437, 46 USPQ 2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). "ELI LILLY AND COMPANY v BARR

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LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON
PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Such as "a connector shaped and configured to receive a battery to provide power to the system, the connector in communication with the power management module".

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sellers (Sellers), U.S. Patent No. 5,666,541 in view of Hogdahl et al. (Hogdahl), U.S. patent no. 5,264,992.

Sellers is a prior art cited by applicant in IDS which is mailed in 11/8/03.

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As per claim 1, Sellers disclose a system [fig. 1], comprising:

a user interaction detector to produce a signal indicative of whether a user is interacting with the system [col. 2, lines 51-52; col. 3, lines 26-27];

a user proximity detector to determine whether a user is proximate to the system and to produce a signal indicative of user proximity, the user proximity detector separate from and responsive to the user interaction detector [col. 2, lines 5-10; col. 3, lines 32-50; col. 4, lines 35-66];

a power management module to manage power in the system, the power management module responsive to the signal indicative of user proximity [col. 2, lines 62-65; col. 3, lines 24-31; col. 4, lines 35-41].

a battery provides power to the system in communication with the power management module [col. 1, lines 12-13]

Sellers does not explicitly disclose that a connector shaped and configured to receive a battery to provide power to the system, the connector in communication with the power management module.

Hogdahl discloses that a connector shaped and configured to receive a battery to provide power to the system, the connector in communication with the power management module [fig. 5B; col. 7, lines 16-23].

It would have been obvious to one of ordinary skill in the art at time the invention to combine the teachings of Sellers and Hogdahl because they are both directed to a computer system, and the specify teachings of Hogdahl of using a battery to supply power to the computer would utility Sellers system to implement a connector to connect

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the power supply.

As per claim 3, Sellers discloses that the user interaction detector comprises circuitry to determine whether a user is interacting with the system via at least one of a mouse and a keyboard [col. 2, lines 51-52; col. 3, lines 26-27].

As per claim 6, Sellers discloses that the power management module is to reduce system power consumption in response to the signal indicative of user proximity indicating that a user is not proximate to the system [col. 2, lines 62-65; col. 3, lines 24-31; col. 4, lines 35-41].

As per claim 7, Sellers discloses that the system further includes a display, and wherein the power management module is to reduce system power consumption by reducing an amount of power to the display [col. 1, lines 12-24, 51-59].

As per claim 8, Sellers discloses that the system is a mobile computing system [col. 1, lines 12-13].

9. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sellers (Sellers), U.S. Patent No. 5,666,541 in view of Hogdahl et al. (Hogdahl), U.S. patent no. 5,264,992 and what was well known in the art, as exemplified by Hongo et al. (Hongo) JP patent no. 11-242733.

Hongo is a prior art cited by applicant in IDS that mailed in 11/8/03.

As to claims 4 and 5, Examiner takes Official Notice that the user proximity detector is a camera with active pixel sensors which is well known in the art of computer system, evidence of which may be found in:

Hongo: 10, fig. 2; abstract all

It would have been obvious to one of ordinary skill in the art at time the invention to employ the use of a camera and thereby captures a presence of person as Hongo teach in the above-cited passage.

Claim Rejections - 35 U.S.C. § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Sellers (Sellers), U.S. Patent No. 5,666,541.

As per claim 9, Sellers discloses that a power control device for a computer [fig. 1], comprising:

user interaction circuitry to produce a signal indicative of whether a user is interacting with the computer [col. 2, lines 51-52; col. 3, lines 26-27];
a user proximity detector separate from the user interaction circuitry and responsive to the signal indicative of whether a user is interacting with the computer, the user proximity detector to produce a signal indicative of user proximity to the computer [col. 2, lines 5-10; col. 3, lines 32-50; col. 4, lines 35-66]; and

a power control module to manage power in the computer, the power management module responsive to the signal indicative of user proximity [col. 2, lines 62-65; col. 3, lines 24-31; col. 4, lines 35-41].

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12. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sellers (Sellers), U.S. Patent No. 5,666,541 in view of what was well known in the art, as exemplified by Hongo et al. (Hongo) JP patent no. 11-242733.

As to claims 14 and 15, Examiner takes Official Notice that the user proximity detector is a camera with image processor that is well known in the art of computer system, evidence of which may be found in:

Hongo: 10, fig. 2; abstract all

It would have been obvious to one of ordinary skill in the art at time the invention to employ the use of a camera and thereby captures a presence of person as Hongo teach in the above-cited passage.

Allowable Subject Matter

13. Claims 2 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Cao whose telephone number is 571-272-3664. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Chun Cao', with a stylized, cursive script.

Chun Cao

Dec. 23, 2004